

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JAIME NELSON-MOLNAR,
individually and as next friend of
J.W., a minor,

Plaintiff,

v.

Case No. 2:23-cv-11810
Hon. George Caram Steeh
Magistrate Judge Anthony P. Patti

ANN ARBOR PUBLIC SCHOOLS,
MICHAEL JOHNSON in his official capacity
as Principal of Carpenter Elementary School,
and DURHAM SCHOOL SERVICES LP,
d/b/a/ DURHAM TRANSPORTATION,

DEFENDANT
MICHAEL JOHNSON'S
NOTICE OF NON-
PARTY AT FAULT

Defendants.

Megan Bonanni (P52079)
Danielle Y. Canepa (P82237)
Beth Rivers (P33614)
PITT MCGEHEE PALMER
BONANNI & RIVERS
Attorneys for Plaintiff
117 W. Fourth Street, Suite 200
Royal Oak, MI 48067
248.398.9800
mbonanni@pittlawpc.com
dcanepa@pittlawpc.com
brivers@pittlawpc.com

Cinnamon A. Plonka (P60979)
Kyle A. Warwick (P78820)
ZAUSMER, P.C.
Attorneys for Defendant
32255 Northwestern Highway, #225
Farmington Hills, MI 48334-1574
248.851.4111/Fax: 248.851.0100
cplonka@zausmer.com
kwarwick@zausmer.com

John J. Gillooly (P41948)
Kathleen M. Jozwiak (P79921)
GARAN LUCOW MILLER, P.C.
Attorneys for Defendant
Michael Johnson
1155 Brewery Park Blvd., Ste 200
Detroit, MI 48207-2641
313.446.5501 / Fax:
313.259.0450
jgillooly@garanlucow.com
kjozwiak@garanlucow.com

Anne-Marie Welch (P70035)
CLARK HILL, PLC
Attorneys for Defendant
Ann Arbor Public Schools
220 Park Street, Suite 200
Birmingham, MI 48009-3477
248.988.1810/Fax: 248.988.2517
awelch@clarkhill.com

DEFENDANT MICHAEL JOHNSON'S
NOTICE OF NON-PARTY AT FAULT

NOW COMES Defendant, MICHAEL JOHNSON, by and through his attorneys, GARAN LUCOW MILLER, P.C., and for his Notice of Non-Party at Fault, states as follows:

1. The instant lawsuit arises out of an incident that occurred during the 2021-2022 school year at Carpenter Elementary School in Ann Arbor, Michigan, wherein an individual by the name of Rochanda Jefferson assaulted the minor Plaintiff, J.W., on the school bus while she was a bus monitor for Durham Transportation ("Durham"). Ms. Jefferson was subsequently charged criminally and found guilty of child abuse.

2. Plaintiffs bring the following claims against Defendants: (1) a § 1983 claim for state-created danger against Mr. Johnson and Durham; (2) a *Monell* claim against AAPS; (3) a § 1983 substantive due process claim against Mr. Johnson and Durham; (4) violation of the Americans with Disabilities Act, 42 U.S.C. § 12132, *et seq.*, against AAPS and Durham; (5) violation of Section 504 of the Rehabilitation Act against AAPS and Durham; (6) discrimination in violation of Michigan Persons with Disabilities Civil Rights Act, MCL 37.1101, *et seq.*, against AAPS and Durham; (7) failure to report child abuse under the Michigan Child Protection Law, MCL 722.623, against all Defendants; and (8) a claim for intentional infliction of emotional distress against all Defendants.

3. Michigan federal courts have consistently relied on MCR 2.112(K) for notice-of-fault requirements. See *MCM Mgmt. Corp. v. Jenkins Env't, Inc.*, No. 2:21-CV-10970, 2022 WL 16052610, at *1 (E.D. Mich. July 8, 2022); *Greenwich Ins. Co. v. Hogan*, 351 F.Supp.2d 736 (W.D. Mich. 2004).

4. Pursuant to MCR 2.112(K), a party against whom a claim is asserted must give notice that a nonparty may be wholly or partially at fault within 91 days after the party files its first responsive pleading.

5. Defendant Michael Johnson filed his Answer to Plaintiffs' Complaint on October 10, 2023. (ECF No. 13).

6. Since Rochanda Jefferson was the individual who assaulted the minor Plaintiff, she may be wholly or partially at fault in this matter pursuant to MCR 2.112(K).

WHEREFORE, please take notice that, pursuant to MCR 2.112(K), Defendant MICHAEL JOHNSON hereby names **ROCHANDA JEFFERSON** as a **nonparty at fault** in this matter.

Respectfully Submitted:
GARAN LUCOW MILLER, P.C.

/s/Kathleen M. Jozwiak
KATHLEEN M. JOZWIAK (P79921)
Attorney for Defendant Johnson
1155 Brewery Park Blvd., Suite 200
Detroit, MI 48207
kjozwiak@garanlucow.com

Dated: October 31, 2023

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

CERTIFICATE OF SERVICE

I hereby certify that on October 31, 2023, my assistant, Lisa Koch, electronically filed the foregoing document with the Clerk of the Court using the ECF system which will send notification of such filing to the following:

- **Megan Bonanni**
mbonanni@pittlawpc.com, rbell@pittlawpc.com
- **John J. Gillooly**
jgillooly@garanlucow.com, dshealy@garanlucow.com
- **Beth M. Rivers**
brivers@pittlawpc.com, rbell@pittlawpc.com
- **Anne-Marie Vercruysse Welch**
awelch@clarkhill.com, aserdiuk@clarkhill.com,
JBarnes@ClarkHill.com
- **Danielle Young Canepa**
dcanepa@pittlawpc.com, cbechill@pittlawpc.com

and I hereby certify that on October 31, 2023, my assistant, Lisa Koch, mailed by United States Postal Service the foregoing document to the following non-ECF participants, with full legal postage prepaid thereon and deposited in the United States mail: **N/A**

/s/Kathleen M. Jozwiak
Kathleen M. Jozwiak (P79921)
GARAN LUCOW MILLER, P.C.
Attorney for Defendant Michael Johnson